

**FILED**  
**HARRISBURG, PA**

**MAY 26 2006**

**MARY E. D'ANDREA, CLERK**  
**Per** 

UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

JESSE ADAMS,	:	CIVIL NO. <b>4:06-CV-00386</b>
	:	
Petitioner	:	(Judge McClure)
v.	:	
	:	(Magistrate Judge Smyser)
WARDEN RONNIE HOLT,	:	
	:	
Respondent	:	

**ORDER**

On February 21, 2006, the petitioner, a federal prisoner proceeding *pro se*, filed a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241.

On March 6, 2006, the petitioner filed a motion for summary judgment and a brief in support of that motion.

After the petitioner paid the filing fee in this case, by an order dated March 14, 2006, the respondent was ordered to show cause on or before April 4, 2006 why the petitioner should not be granted habeas corpus relief. The Order of March 14, 2006 also provided that the petitioner may file a reply to the respondents' response within ten days of the filing of the response.

On March 20, 2006, the petitioner filed a request for the appointment of counsel.

On March 29, 2006, the respondents filed a brief in opposition to the petitioner's motion for summary judgment, and after requesting and receiving an extension of time, the respondents filed a response to the petition on April 10, 2006. The petitioner has not filed a reply.

The petitioner pled guilty in the Superior Court of the District of Columbia to attempted possession with intent to distribute cocaine. *Doc. 15, Exhibit 4*. The petitioner was sentenced to a six month term of imprisonment and a three year term of supervised release. *Id.* The petitioner began service of his supervised release term on April 1, 2003 and was to remain on supervised release until March 31, 2006. *Doc. 15, Exhibit 5*.

On March 1, 2004, the petitioner was arrested by the District of Columbia Metropolitan Police for unauthorized use of a vehicle, theft and receiving stolen property. *See Doc. 15, Exhibit 6*. The petitioner was released as to those charges on his personal recognizance on March 11, 2004. *Id.* However, the petitioner was thereupon held in the custody of the D.C. Metropolitan Police Department on the basis of a fugitive warrant

from Prince George's County, Maryland. *Doc. 15, Exhibit 10 at ¶5 and Exhibit 7 at p.4.*

On March 31, 2004, the Parole Commission issued a warrant charging the petitioner with violating the terms of his supervised release by failing to submit to drug testing, using dangerous and habit forming drugs, failing to report to his community supervision officer, and committing violations of the law (unauthorized use of a vehicle, theft and receiving stolen property). *Doc. 15, Exhibit 6.*

The petitioner was released by Prince George's County authorities, and on April 14, 2004, the petitioner was taken into custody on the warrant issued by the Parole Commission. *Doc. 15, Exhibit 7 at p.4.* A parole revocation hearing was held on May 27, 2004. *Doc. 15, Exhibit 7.* By a Notice of Action dated June 14, 2004, the Parole Commission revoked the petitioner's supervised release. *Doc. 15, Exhibit 8.* The Notice of Action provided that the petitioner shall serve a new term of imprisonment of 21 months and a new term of supervised release of 39 months following release from custody. *Id.*

With respect to the criminal charges filed against the petitioner on the basis of the incident(s) leading to his arrest

on March 1, 2004, the petitioner pled guilty to unauthorized use of a vehicle and first degree theft. *Doc. 15, Exhibit 9.* On June 16, 2005, the petitioner was sentenced by the District of Columbia Superior Court to 22 months imprisonment for unauthorized use of a vehicle and a concurrent sentence of 22 months for first degree theft. *Id.* Those sentences were ordered to run consecutive to any other sentence of the petitioner. *Id.*

The Bureau of Prisons aggregated the petitioner's 21 month supervised release violation sentence and his 22 month sentence for unauthorized use of a vehicle and first degree theft. *Doc. 15, Exhibit 10 at ¶5.* The petitioner is currently serving that aggregated 43 month sentence. *Id.* The petitioner's sentence began on April 14, 2004, the date that the Supervised Release Violation Warrant was executed. *Id.* The petitioner received credit toward his 43 month aggregate sentence for the time he was in custody from March 1, 2004 through March 11, 2004. *Id.* The BOP calculates the petitioner's full term expiration date of his sentence to be November 2, 2007 and his projected release date to be August 11, 2007. *Id.*

The petition in this case is difficult to interpret. The respondent construed the petition as raising two claims: 1) that the BOP failed to give the petitioner credit toward his sentence

for the time he spent in custody in Prince George's County, Maryland on charges unrelated to his current sentence; and 2) that regulations of the Parole Commission require that it grant the petitioner credit for the time he served on his new sentence. In addition, we construe the petition as raising three additional claims: 1) that the Parole Commission denied the petitioner due process by incorrectly calculating his salient factor score; 2) that the Parole Commission denied the petitioner due process and violated its own regulations by failing to hold a timely probable cause hearing after the petitioner's arrest; and 3) that the parole commission violated the petitioner's due process rights by revoking his supervised release before the disposition of his new criminal charges in the District of Columbia Superior Court. We will direct the respondent to file a supplemental response to the petition addressing the three additional claims set forth above.

We will deny the petitioner's motion for the appointment of counsel without prejudice to the court considering whether to appoint counsel after the respondent files his supplemental response.

**IT IS ORDERED** that the petitioner's request (doc. 9) for the appointment of counsel is **DENIED WITHOUT PREJUDICE**. **IT IS FURTHER ORDERED** that the respondent shall file, on or before June

12, 2006, a supplemental response to the petition addressing the three additional claims set forth in this Order. The petitioner may file a reply within ten days after the respondent files his supplemental response.

/s/ J. Andrew Smyser  
J. Andrew Smyser  
Magistrate Judge

Dated: May 26, 2006.